

REMARKS

Claims 1-18 are pending in the present application, of which claims 19 and 20 have been canceled without prejudice or disclaimer thereto. Applicant appreciates the indication that claims 9, 12 and 18 contain allowable subject matter. Applicant respectfully submits that since claim 18 is already in independent form, it is in condition for immediate allowance. Applicant has amended the claims to render the remaining application in condition for allowance. Reconsideration and allowance of the application are respectfully solicited.

Claims 1 and 16 have been amended to more clearly define the claimed subject matter. In particular, claim 1 has been amended to recite that the biosensor comprises several reagents contained in the sample supply pathway and that the buffer is disposed at a position closer to the sample supply port than any of the other recited reagents. Support for this amendment can be found throughout the detailed specification and drawings as, for example, beginning on page 25, last paragraph, through page 27, where Applicant describes one embodiment of the application which includes disposing the buffer upstream and closer to the supply port relative to the other reagents. Claims 6-9 were amended to be consistent with independent claim 1. Accordingly, it is respectfully submitted that no new matter has been added to the application by these amendments.

Rejection Under 35 USC 112

Claims 6 and 9 were rejected under 35 USC 112, second paragraph, as allegedly being indefinite. In particular, the claims were rejected because the phrase "carried separately" appears indefinite. The rejection is traversed and it is respectfully submitted that

one of skill in the art would have no difficulty understanding the meets and bounds of the claimed subject matter.

Applicant has amended claims 6 and 9 to more distinctly define the claimed subject matter. In particular, Applicant has deleted the phrase “carried separately” and replaced it with the term “disposed” to more readily identify the fact that these reagents are contained in the biosensor. Reconsideration and withdrawal of the rejection are respectfully solicited.

Rejection Under 35 USC 102

Claims 19 and 20 were rejected under 35 USC 102 as being anticipated by Modrovich or Goodhue. Claims 19 and 20 have been canceled without prejudice or disclaimer thereto. Accordingly, this rejection is now moot.

Rejection Under 35 USC 103

Claims 1-5, 7, 8, 10, 11, and 13-19 were rejected under 35 USC 103 as being unpatentable over Yamamoto in view of Pollman, Winarta, Blubaugh, and Yoshioka. The rejection is traversed and it is respectfully submitted that claims 1-5, 7, 8, 10, 11 and 13-17 are patentable within the meaning of 35 USC 103.

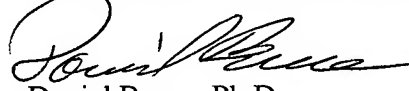
Independent claim 1 relates to a biosensor comprising several reagents contained therein. In particular, the biosensor contains a buffer disposed at a position closer to a sample supply port than any of a cholesterol-oxidizing enzyme, a cholesterol esterase and an electron mediator reagent. Independent claim 16 recites the same features of a biosensor in the measuring system. The dependent claims further define aspects of the independent claims. None of the cited art teaches or suggests a biosensor or a measuring system

including a biosensor which has a buffer contained therein disposed at a position closer to the sample supply port relative to other reagents. Indeed, the Examiner's reasoning for allowing claim 9 is that it would not have been obvious to separate the buffer from the electron mediator and dispose it closer to the sample supply port. Applicant respectfully submits that for the same reasoning, independent claims 1 and 16 are patentable over the cited art. Accordingly, favorable consideration and allowance of the application are respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

MCDERMOTT WILL & EMERY LLP



Daniel Bucca, Ph.D.

Registration No. 42,368

600 13th Street, N.W.
Washington, DC 20005-3096
(202) 756-8000 DB:MWE
Facsimile: (202) 756-8087
Date: August 16, 2004